

REMARKS

The Examiner rejected claims 1 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Freeman (US 4,452,381) in view of Jordan (US 3,338,482) and Price (US 5,772,069). The Freeman reference discloses a container 10 having a hollow elongated portion 22 threadably secured to the container 10. The upper end of the tubular portion 22 has an internal step as shown Fig. 4 which is sized to provide a tight, frictional snap engagement with a disc-shaped base plate 28. A pouring spout or nozzle 30 includes a raised circular pad 32 formed on the base plate 28. The pouring nozzle 30 has fluid communication with the interior of the tubular portion 22. Immediately adjacent the channel 34 is a tubular air vent channel 36 of round cross-section. The air vent channel 36 provides a source of air when the liquid is being poured from the container 10.

Applicants claim 1 requires that the hollow bent pour spout to be integrally formed at a first end along the hollow main body portion. The Freeman reference does not disclose this structure.

The Examiner notes that Freeman does not disclose that the bent portion of the spout is perpendicular with the longitudinal axis of the bottle but that Jordan discloses the spout 15 with a bent portion that is perpendicular with the longitudinal axis of the bottle. The Examiner contends that it would have been obvious to have one of ordinary skill in the art at the time the invention was made to make the spout of Freeman perpendicular as taught by Jordan, so that the bottle does not have to be tilted as much to pour fluid material from it. If the Examiner's argument is that the bent portion of spout 15 in Jordan could be substituted for the Freeman spout 30, it is not believed that this would be possible and still come within the scope of the Freeman

disclosure, which requires that an air vent channel 36. The Freeman reference does not show an air vent in spout 15 and if the Jordan bent spout were substituted for the nozzle 30 in Freeman, the object of the Freeman invention would not be obtained.

Further, the applicant has amended claim 1 to require the finger grips to have a convex shape, as shown in Fig. 7 of the applicant's application. The roughened areas 52, as shown in Freeman, are not believed to be similar to the convex-shaped finger grips of the applicant's invention.

The Examiner finally notes that Freeman does not disclose a holder for the container, but that Price discloses a holder (500) having a channel at the bottom of the holder for receiving a flange of the container (cup 100); the bottom of the holder (500) has a shape corresponding with the shape of the bottom of the container (cup); and the bottom of the holder (500) has cutouts between the ribs (562). The Examiner contends that it would have been obvious to one with ordinary skill in the art at the time the invention was made, to include a holder for Freeman's container in order to provide a place for the container to rest in when not in use as taught by Price. The Freeman container has a flat bottom, not a concave bottom. Therefore, if the Freeman container was placed in the Price holder, none of the advantages as subscribed by the applicant would be obtained. There is no recognition in Freeman that the bottom of the container could be modified to have the nesting feature as claimed by the applicant.

Further, the Price cup holder does not disclose a spout including an elongated hollow main body portion having a hollow bent portion integrally formed at the first end thereof. The cup holder is raised out of the holder in Price by means of a handle (196). Therefore, the Price reference is directed to an entirely different field of use than the present invention, which is a

sand and divot replacer which is mounted to golf carts. One skilled in the art would not be looking at the cup holder art in designing a sand and divot replacer.

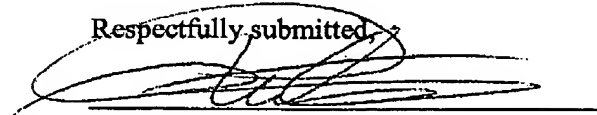
Further, the physical structure of Price is quite different from the structure of the applicant's invention. Price has a series of ribs (562) which are bent at the bottom of the holder to provide a channel for receiving a correspondingly shaped bottom of a cup. Comparing Fig. 6 of the applicant's invention with Fig. 2 of the Price reference, immediately shows many physical differences. For example, the applicant requires a hollow holding means having a main body portion open at the top and closed at the bottom with a bottom wall for holding the bottle and spout. Whereas the Price reference shows a holder having open sides because the holder is formed by the ribs (562). Further, the bottom is not shown as having a closed bottom wall as claimed by the applicant. The bottom wall of the holder as claimed by the applicant includes a convex indented portion. No similar structure is shown in Fig. 2 of the Price reference. The applicant requires a plurality of cut outs based around the periphery of the bottom wall. The Price reference as shown in Fig. 2, does not have any cut outs. Finally, Price shows a slot for receiving a handle of a conventional cup. No such structure is shown by applicant because applicant has not designed a holder for a conventional cup.

For these reasons, it is believed that the present invention would not be obvious to one skilled in the art in view of the Freeman, Price and Jordan references.

Reconsideration of the stated grounds for rejection is respectfully requested.

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Respectfully submitted,



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